of investors and the public interest. Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEAmex–2009–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2009–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSEAmex–2009–02 and should be submitted on or before April 22, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

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proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 3.375 (3⅜) percent for the April–June quarter of FY 2009.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

Grady B. Hedgespeth,

Director, Office of Financial Assistance.

[FR Doc. E9–7315 Filed 3–31–09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Providing Guidance on Airline Baggage Liability and Responsibilities of Code Share Partners Involving International Itineraries

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice.

SUMMARY: The Department is publishing the following notice on Airline Baggage Liability and Responsibilities of Code Share Partners Involving International Itineraries.

FOR FURTHER INFORMATION CONTACT: Nicholas Lowry, Attorney, Office of Aviation Enforcement and Proceedings (C–70), 1200 New Jersey Ave., SE.,Washington, DC 20590, (202) 366–9349.

This notice is intended to give guidance to U.S. and foreign air carriers on two tariff matters: First, tariffs relating to liability for lost, stolen, delayed or damaged baggage carried on international itineraries; and second, tariffs that appear to assign responsibility, in code-share service, to the operating carrier rather than the selling carrier (*i.e.*, the carrier shown on the ticket).

We have become aware of tariff provisions filed by several carriers that attempt, with respect to checked baggage, to exclude certain items, generally high-cost or fragile items such as electronics, cameras, jewelry or antiques, from liability for damage, delay, loss or theft. A typical provision found in carrier tariffs and disclosed on carrier Web sites states that the carrier does not assume liability for loss, damage, or delay of ''certain specific items, including: * * * antiques, documents, electronic equipment, film, jewelry, keys, manuscripts, medication, money, paintings, photographs * * *.''

Such exclusions, while not prohibited in domestic contracts of carriage, are in contravention of Article 17 of the Montreal Convention (Convention),[1] as revised on May 28, 1999. Article 17 provides that carriers are liable for damaged or lost baggage if the ''destruction, loss or damage'' occurred while the checked baggage was within the custody of the carrier, except to the extent that the damage ''resulted from the inherent defect, quality or vice of the baggage.'' [2] Article 19 provides that a carrier is liable for damage caused by delay in the carriage of baggage, except to the extent that it proves that it took all reasonable measures to prevent the damage or that it was impossible to take such measures. Although carriers may wish to have tariff terms that prohibit passengers from including certain items in checked baggage, once a carrier accepts checked baggage, whatever is contained in the checked baggage is protected, subject to the terms of the

[1] Convention for the Unification of Certain Rules for International Carriage by Air, adopted on May 28, 1999 at Montreal.

[2] The quoted language might absolve a carrier from liability for a fragile item that is damaged during transport. It would not absolve the carrier from liability for the item's loss or theft.

Convention, up to the limit of 1000 SDRs (Convention, Article 22, para. 2.).[3] Carriers should review their filed tariffs on this matter and modify their tariffs and their baggage claim policies, if necessary, to conform to the terms of the Convention. In addition, carriers should ensure that their websites do not contain improper information regarding baggage liability exclusions applicable to international service.

A second issue of concern stems from airline tariffs related to code-share service. As a condition for approval of international code-share services, the Department has as a matter of policy required that ''the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in the contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected.'' (Order 2008–5–19, OST–2008–0064).[4] Notwithstanding this clear language, several carriers have filed tariff provisions that purport to apply the terms and conditions of the operating carrier's contract of carriage generally, or in certain areas such as check-in time limits, unaccompanied minors, carriage of animals, refusal to transport, oxygen service, irregular operations, denied boarding compensation, and baggage acceptance, allowance and liability. Others state that passengers on code-share flights ''may be subject'' to the operating carrier's baggage charges. A number of carriers have no clear tariff rule on the subject. The intent of this DOT code-share approval provision may not be circumvented by tariff provisions attempting to allocate responsibility and contract of carriage provisions in different ways by the carriers involved, or by silence on the subject. As with the exclusionary provisions cited above, carriers should review their tariffs and practices and make revisions, if necessary, to reflect the conditions imposed in the Department's orders approving code-share service.

As a matter of policy, the Aviation Enforcement Office will consider the subject tariff provisions noted above involving exclusionary baggage provisions to be of no effect and in violation of the Convention and those involving code share relationships to be in violation of pertinent Department approvals of those code-share services. The tariffs and their application, and similar practices, in the view of the Aviation Enforcement Office, also constitute unfair or deceptive business practices and unfair methods of competition in violation of 49 U.S.C. 41712. Carriers should, therefore, review their tariffs and practices with respect to these two areas and, if necessary, immediately modify their practices to conform to the Convention and Department code-share conditions and, within 90 days of this notice, revise their respective tariffs and modify appropriately the statements of their baggage and code-share policies on their Web sites. After that date, the Aviation Enforcement Office will pursue enforcement action in appropriate cases. This disclosure guidance, it should be noted, also extends to ticket agents. Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings (C–70), U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590.

Dated: March 26, 2009.
By:

Samuel Podberesky,

Assistant General Counsel for Aviation Enforcement and Proceedings.

An electronic version of this document is available at *http://www.regulations.gov.*

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[3] Article 22, para. 2 also allows the passenger to declare excess value for baggage, subject to payment of a supplementary fee if the carrier so requires. Some tariff provisions state that the higher declared value shall not apply to a list of valuable articles including ''money, jewelry, silverware, negotiable papers, securities, business documents, samples, paintings * * *.'' Such rules are also inconsistent with the Convention.

[4] Similar language occurs in numerous other approvals of code-share services.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review; Kansas City International Airport, Kansas City, MO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Kansas City Aviation Department for the Kansas City International Airport under the provisions of 49 U.S.C. 47501 *et seq.* (Aviation Safety and Noise Abatement Act, herein after referred to as ''the Act'') and 14 Code of Federal Regulations (CFR) part 150 (hereinafter referred to as ''Part 150'') are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for the Kansas City International Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before September 16, 2009.

DATES: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is March 20, 2009. The public comment period ends May 19, 2009.

FOR FURTHER INFORMATION CONTACT: FAA, Todd Madison, ACE–61 1 F, 901 Locust, Room 335, Kansas City, Missouri 64106–2325, *todd.madison@faa.qov*, 816–329–2640. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces the FAA finds that the noise exposure maps submitted for the Kansas City International Airport are in compliance with applicable requirements of Part 150, effective March 20, 2009. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before September 16, 2009. This notice also announces the availability of this program for public review and comment.

Under 49 U.S.C., section 47503 of the Act, an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The Kansas City Aviation Department submitted to the FAA on March 6, 2009, noise exposure maps, descriptions and other documentation that were produced during the ''2008 Update to 14 CFR Part 150 Noise Exposure Maps and